



BAY PLANNING COALITION

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California State Assembly Budget Subcommittee #3
State Capitol Building
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JOSEPH K. WONG
PORT OF OAKLAND

Subject: FY 99-00 Budget for BCDC - Position: OPPOSE the provision for the Imposition of dredging fees

Dear Chairwoman Strom-Martin and Subcommittee members,

The Governor's proposed budget for BCDC, described in the SFBCDC staff report of Jan. 15, 1999, includes a provision to fund a portion (\$174,000) of the Commission's budget from a user fee on dredging projects. This fee is to cover two staff positions for the Long Term Management Strategy for Dredged Material Disposal (LTMS), The Coalition, representing Bay ports, marine terminals, recreational marinas and related shoreline business and Bay users, is **opposed** to funding the BCDC's LTMS staff positions from a user fee on dredging projects.

History of the LTMS and funding sources

The LTMS is a multiple state-federal agency program which was initiated almost ten years ago to develop a plan for managing dredging and disposal of dredged material in an economically feasible and environmentally sound manner. The program was approved through an Memorandum of Agreement entitled Executive Management Plan for a Long Term Management Strategy for Dredging and Dredged Material Disposal from San Francisco Bay in July, 1990 by the U. S. Army Corps of Engineers, the U. S. Environmental Protection Agency, the State Water Resources Control Board (SWRCB), the S. F. Bay Regional Water Quality Control Board (RWQCB) and the S. F. Bay Conservation and Development Commission (BCDC). Over 40 other non-profit business and environmental groups and public sector entities, such as the Bay Planning Coalition, have also been participating in the LTMS program to date.

The LTMS program was based on a series of technical studies covering the environmental evaluation of alternative disposal strategies for in-Bay, ocean and upland reuse sites. The U. S. Congress authorized \$16 million to the U. S. Army Corps of Engineers to carry out the technical studies.

STAFF

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The State of California authorized the participation by the state agencies by legislation, AB 1059 (Chapter 583, Statutes of 1991).

LTMS funding 1991-1994

The State General Fund provided monies for the S. F. Bay Regional Water Quality Control Board; however, BCDC's participation was partially funded by a user fee of 10 cents which was established by AB 1059. The BPC was opposed to an industry-based fee because we considered the LTMS to be clearly in the economic and environmental public interest of the state, and that the program should be supported by the State General Fund.

Also there was controversy during the hearings on the legislation over exactly what BCDC's responsibilities were to be since the federal government was paying for the technical studies. However, the end result was that due to the state recession at that time, we were told that there was not enough monies available from the State General Fund for BCDC. We finally agreed to pay the fee to keep the LTMS program moving but on the condition that another existing dredging fee be eliminated which was then being charged by the State Lands Commission, that BCDC responsibilities should be clearly delineated and that duplication among the state agencies should be avoided.

Based on the estimated cost of BCDC staff participation in the LTMS at that time of \$210,000 per year, the dredging fee was capped at \$650,000, and the sunset date for fee authorization to expire was January 1, 1998. Approximately \$165,000 per year was estimated to be provided by the dredging fee, and the remainder was to come from the State General Fund. It was anticipated that the LTMS would be completed by 1994.

LTMS funding 1994-1998

In 1994 since the final LTMS environmental document had not been completed and the dredging fund had reached its cap, BCDC requested from the industry an agreement to continue the fee and raise the cap in order to complete the FEIS/EIR. At that time we had lengthy discussions with BCDC about how the dredging fee monies were being used. It appeared that there was a lot of overlap and fuzziness between the amount of staff time spent on actual dredging permit review (for which we already paid a permit fee) versus actual staff time spent on the LTMS program. Also we recommended at that time (and this is still our basic position to date) that there should only be one state agency regulating dredging and that agency should be the RWQCB since dredging is a water quality matter.

We finally agreed, again, to pay the fee, but at a reduced level of funding of 7 cents a yard. This revised agreement was to recognize a

reduction in staff level required and to acknowledge that a very limited period of time was needed to enable BCDC to participate in the completion of the FEIS/EIR and to be engaged in establishing the Dredged Material Management Office (DMMO) for the joint-agency review of dredging permits. The fee authorization expired according to law on Jan. 1, 1998, the LTMS FEIS/EIR was published in November, 1998 and the DMMO was fully established in 1996.

LTMS Implementation

The LTMS agencies in the FEIS/EIR selected as their preferred 50-year, disposal policy alternative what is known as the 40-40-20 proposal,--40% of material dredged in the Bay is proposed to be deposited in upland beneficial reuse, such as wetland restoration and levee rehabilitation sites; 40% in the deep- water ocean site; and 20% at the in-Bay sites.

The LTMS is now at a turning point in its history, and the state and federal agencies, with BCDC and the RWQCB taking the lead, have begun workshops to explore with the involved organizations, such as ourselves, the next steps. The format for the implementation process for the 50-year goal has yet to be defined. There are major obstacles to be resolved primarily revolving around the lack of upland sites and the lack of financial resources to support the use of upland sites. We are hoping to resolve some of these issues at the workshop sessions.

In the meantime, we think that the activities to ensure that dredging continues in an environmentally sound and economically feasible manner should be centered in the DMMO. The DMMO is chaired by a fulltime staff member of the U. S. Army Corps of Engineers, and the participants are the state and federal agencies with regulatory and advisory jurisdiction over dredging and include the S. F. Bay RWQCB, State Lands Commission, BCDC, Ca. Dept. of Fish and Game, U. S. EPA, and the U. S. Army Corps of Engineers. The DMMO group meets twice a month to review permits. A framework needs to be developed for the interpretation of sediment test results and disposal site decisionmaking criteria should be established. This can be done within the DMMO. Workshops can be held outside of the DMMO to build consensus on a range of implementation topics particularly around defining action plans to bring alternative disposal sites on line based on practicability and environmental evaluation of impacts, and also the sediment interpretive testing framework.

Staff participation in the DMMO by the state regulatory agencies should be supported by the State General Fund. The RWQCB, Ca. Dept of Fish and Game and the State Lands Commission have General Fund support for their participation. There is no justification for the imposition of a separate fee to pay for BCDC's involvement.

Other Dredging Fees

Currently project applicants pay other fees in the state regulatory approval process to maintain navigability and safety in San Francisco Bay-- all to support the interests of the state in a vibrant economy based on commerce and international trade and a healthy environment. These include the BCDC permit fee, the Regional Water Quality Control Board's Waste Discharge Requirement or Water Quality Certification fee, the State Lands Commission lease permit, and the Ca. Department of Fish and Game fee for CEQA review. In addition project applicants must pay fees to cover the chemical and biological toxicity testing for sediments and a fee (22 cents per cubic yard) for the S. F. Bay Regional Monitoring Program. We just completed an eight-year fee payment program (fee amounts annually ranging from \$5,000 to \$50,000 depending on dredging volume and/or business category) for the State's Bay Protection and Toxic Hot Spot Cleanup Program..

Given our existing fee responsibilities, we do not think it is reasonable to pay any additional fees. The beneficiaries of the program are the people of the state of California who receive the benefits from our state's success in international trade and commerce. Financial support for BCDC's participation, as it is for the SF Bay RWQCB and the other state agencies, should come from the State General Fund.

Sincerely yours,



Ellen Johnck
Executive Director

cc: Will Travis, Executive Director, S. F. BCDC
Loretta Barsamian, Executive Officer, S. F. Bay RWQCB
Robert Hight, Executive Officer, State Lands Commission
Executive Director, Ca. Dept. of Fish and Game
Walt Pettit, Executive Officer, State Water Resources Control Bd
Lt. Colonel Peter Grass, S. F. District Engineer, U. S. Army
Corps of Engineers
Alexis Strauss, Acting Water Quality Manager, US EPA